[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Parts 429, 430, and 431

(Docket No. EERE-2011-BT-TP-0061)

RIN: 1904-AC65

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: In this notice of proposed rulemaking (NOPR), the U.S. Department of Energy (DOE) proposes to update its test procedures for showerheads, faucets, water closets, and urinals. Specifically, DOE proposes to incorporate by reference the American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI) Standard A112.18.1-2011 test procedure for faucets and showerheads, which would replace the 1996 version currently referenced by DOE in its test procedure. DOE also proposes to incorporate by reference ASME/ANSI Standard A112.19.2-2008 procedure for water closets and urinals, which would replace the 1995 version currently referenced by DOE in its test procedure. These updates fulfill

DOE's obligation under the Energy Policy and Conservation Act (EPCA) to review its test procedures for covered products at least once every 7 years and either amend the applicable test procedures or publish a determination in the Federal Register not to amend them. DOE also expects that incorporation of the updated procedures will bring DOE's testing requirements more closely in line with current industry practices, reduce the burden associated with testing and reporting test results for these products, and improve the accuracy of test results.

For commercial prerinse spray valves, DOE has preliminarily determined that no changes are needed to the existing DOE test procedure in order to accurately measure the water consumption of these products, and proposes to retain the existing procedure without change. However, since the American Society for Testing and Materials (ASTM) reapproved this standard in 2009 as F2324-03 (2009), DOE is proposing to incorporate by reference this most recent version. This action would also satisfy the EPCA requirement for DOE to review the test procedures for these products at least once every 7 years.

This notice also announces a public meeting to receive comments on these proposed amendments to the test procedures.

DATES: DOE will hold a public meeting on July 24, 2012, from 9 a.m. to 4 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section V, "Public Participation," for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this NOPR before and after the public meeting, but no later than **[INSERT DATE 75 DAYS AFTER FEDERAL REGISTER PUBLICATION]**. See section V, "Public Participation," for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E-089, 1000 Independence Avenue, SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586-2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures. Please also note that those wishing to bring laptops into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes. Persons can attend the public meeting via webinar. For more information, refer to section V, "Public Participation," near the end of this notice.

Any comments submitted must identify the NOPR for Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves, and provide docket number EERE-2011-BT-TP-0061 and/or regulatory information number (RIN) number 1904-AC65. Comments may be submitted using any of the following methods:

1. Federal eRulemaking Portal: http://www.regulations.gov Follow the instructions for submitting comments.
2. Email: PlumbingPrds-2011-TP-0061@ee.doe.gov. Include the docket number and/or RIN in the subject line of the message.
3. Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.
4. Hand Delivery/Courier: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Telephone: (202) 586-2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document ("Public Participation").

Docket: The docket is available for review at regulations.gov, including Federal Register notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket web page can be found at: http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR%252BPS;rpp=10;po=0;D=EERE-2011-BT-TP-0061. This web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V, "Public Participation," for information on how to submit comments through regulations.gov.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586-2945 or by email: Brenda.Edwards@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 287-1317. Email: Lucas.Adin@ee.doe.gov.

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC-71, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 287-6111. Email: Jennifer.Tiedeman@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, which includes the showerheads, faucets, water closets, and urinals that are the subjects of today's notice.[1]

Under EPCA, this program consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy and water conservation standards, and (4) certification and enforcement procedures. The testing requirements include test procedures that manufacturers of covered products must use as the basis for (1) certifying to the DOE that their products comply with applicable energy and water conservation standards adopted under EPCA and (2) making representations about the energy or water consumption of those products on labels and other materials. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

EPCA also includes a water conservation standard and test procedure for commercial prerinse spray valves, which are also addressed in this notice. While commercial prerinse spray valves were originally referenced in Part B of EPCA, DOE noted in a final rule published October 18, 2005, that placement of commercial prerinse spray valves in Part B rather than part C of EPCA, which established the Energy Conservation Program for Certain Commercial and Industrial Equipment,[2] was the result of a legislative drafting error, and subsequently adopted the provisions for commercial prerinse spray valves into 10 CFR part 431. 70 FR 60407, 60409.

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.
[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A-1.

General Test Procedure Rulemaking Process

In 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency or energy use, or, in this case, water use, of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the measured water use of a covered product, DOE must amend the applicable water conservation standard accordingly. (42 U.S.C. 6293(e)(2))

Effective 180 days after an amended test procedure applicable to a covered product is prescribed, no manufacturer may make any representation with respect to water usage of such product unless such product has been tested in accordance with such amended test procedure and

such representation fairly discloses the results of such testing. (42 U.S.C. 6293(c)(2)) However, the 180-day period may be extended for an additional 180 days if the Secretary of Energy (Secretary) determines that this requirement would impose an undue burden. (42 U.S.C. 6293(c)(3))

II. Summary of the Notice of Proposed Rulemaking

EPCA states that the procedures for testing and measuring the water use of faucets and showerheads shall be ASME/ANSI Standard A112.18.1M-1989, "Plumbing Fixture Fittings," for faucets and showerheads, and ASME/ANSI Standard A112.19.6-1990, "Hydraulic Requirements for Water Closets and Urinals," for water closets and urinals; EPCA further specifies that if ASME/ANSI revises these requirements, the Secretary shall adopt such revisions if they conform to the basic statutory requirements for test procedures. (42 U.S.C. 6293(b)(7)–(8)) DOE last amended test procedures for these products in a final rule published in March 1998 (March 1998 final rule), which incorporated by reference ASME/ANSI Standard A112.18.1M-1996, "Plumbing Fixture Fittings," for showerheads and faucets, and ASME/ANSI Standard A112.19.6-1995, "Hydraulic Performance Requirements for Water Closets and Urinals," for water closets and urinals. 63 FR 13308 (March 18, 1998). Since publication of the March 1998 final rule, ASME/ANSI has revised both procedures and issued the most recent versions as A112.18.1-2011, "Plumbing Supply Fittings," for showerheads and faucets in June 2011, and A112.19.2-2008, "Ceramic Plumbing Fixtures," for water closets and urinals in August 2008.

In today's notice, DOE proposes to amend its existing test procedures for showerheads, faucets, water closets, and urinals by adopting, with the exception of certain provisions regarding rounding of measured values, the most recent versions of the corresponding ASME/ANSI procedures for measuring the water consumption of these products. DOE has evaluated these industry procedures and has preliminarily determined that the revised ASME/ANSI test procedures for showerheads, faucets, water, closets, and urinals would (1) produce test results that more accurately measure water use during a representative average use cycle or period of use; and (2) not be unduly burdensome to conduct. 42 U.S.C. 6293(b)(1), (3). DOE has also determined that the adoption of these revised procedures would not alter the measured water use of these products. DOE's determination that the measured water use of showerheads, faucets, water closets, and urinals is not altered is based on an evaluation of the changes to the procedures described in Section III.A for each of the covered products.

Section 135(b)(1) of EPACT 2005 amended section 323(b) of EPCA (42 U.S.C. 6293(b)) to add subsection (14), which states that test procedures for measuring the flow rate for commercial prerinse spray valves "shall be based on [the] American Society for Testing and Materials [ASTM] Standard F2324, entitled 'Standard Test Method for Pre-Rinse Spray Valves.'" In a final rule published on December 8, 2006, DOE incorporated by reference the 2003 version of ASTM Standard F2324 in 10 CFR 431.263, and established it as the uniform test method for measurement of the flow rate of commercial prerinse spray valves in section 431.264. 71 FR 71340.

While commercial prerinse spray valves are included in Part B of EPCA as consumer products rather than in Part C, which addresses commercial and industrial equipment, DOE notes that Part C also contains the same provision regarding periodic review of test procedures for covered equipment at least once every seven years. 42 U.S.C. 6314(a)(1)(A). To fulfill this statutory requirement, DOE initiated this rulemaking and proposes in this NOPR to amend its test procedures for commercial prerinse spray valves. Specifically, DOE proposes to update its references in DOE's current test procedures to the latest version of the ASTM Standard by incorporating by reference ASTM Standard F2324-03 (2009), "Standard Test Method for Prerinse Spray Valves."

The two statutory provisions that address representative test results and test burden for consumer products, which are discussed in the previous paragraph, also apply to DOE review of the test procedures for commercial and industrial equipment. 42 U.S.C. 6314(a)(2). In this light, DOE has evaluated ASTM F2324-03(2009), "Standard Test Method for Prerinse Spray Valves," and has preliminarily determined that these two provisions are met. ASTM F2324-03(2009) does not involve any substantive amendment to the current DOE test procedure for commercial prerinse spray valves, which is based on ASTM F2324-03. However, to reflect the reapproval of the F2324-03 standard by ASME in 2009, DOE is proposing to incorporate by reference the reapproved version in 10 CFR 431.264.

DOE also proposes to retain the existing descriptors for measures of maximum permissible water use for water closets, urinals, faucets, and showerheads currently found in 10

CFR 430.23(s) through 430.23(v) (gallons or liters per minute or cycle, and gallons or liters per flush), and to retain the existing water use descriptors (gallons or liters per minute) for commercial prerinse spray valves in 10 CFR 431.264.

DOE considers the activity initiated by this proposed rule sufficient to satisfy the statutory requirement that DOE must review its test procedures for all covered products, including plumbing products, at least once every 7 years and either amend the applicable test procedures or publish a determination in the Federal Register not to amend them. (42 U.S.C. 6293(b)(1)(A) and 42 U.S.C. 6314(a)(1))

III. Discussion

A. Statutory Plumbing Requirements

1. Test Procedures for Showerheads and Faucets

The current test procedures for showerheads and faucets are found in appendix S of 10 CFR part 430, subpart B, (Appendix S) and require that tests be conducted in accordance with the test procedure requirements specified in section 6.5, "Flow Capacity Test," of ASME/ANSI Standard A112.18.1M-1996. In the revised ASME/ANSI Standard A112.18.1-2011, the flow capacity test has been moved to section 5.4 of that standard, titled "Flow Rate." Minor substantive changes to the flow capacity test include (1) a requirement that the pressure differential measurement be within +/- 1 pound per square inch (psi) for faucets and +/- 2 psi for showerheads (not previously specified for either product), (2) a change in the test procedure

temperature range to 5 to 71 °C for faucets (previously 4 to 66 °C) and to 32 to 44 °C for showerheads (previously 4 to 66 °C), (3) a requirement that a container large enough to hold water collected over a minimum of 1 minute be used when using the time/volume test procedure method for faucets and showerheads (not previously specified), and (4) a requirement that flow be maintained during testing for at least 1 minute for showerheads (not previously specified). DOE sees no evidence that the changes identified in this paragraph will result in a change in the measured water use of faucets or showerheads, and therefore proposes to incorporate by reference the applicable section of ASME/ANSI Standard A112.18.1-2011 for testing showerheads and faucets at Appendix S.

The existing test procedure language in Appendix S of 10 CFR part 430 also requires, for all faucets and showerheads, that measurements be recorded at the resolution of the test instrumentation and that calculations be rounded off to the same number of significant digits as the previous step. It also requires that the final water consumption value be rounded to one decimal place for non-metered faucets and for showerheads, and to two decimal places for metered faucets. DOE originally introduced these provisions as part of its 1998 final rule in order to establish uniformity in the calculated results reported in certifications of compliance. 63 FR at 13310. DOE has not received any information since that time indicating that these rounding provisions should be modified, and proposes to retain them without change.

DOE requests comment on these proposed amendments to the existing test procedures for showerheads and faucets, including provisions pertaining to representations of water consumption and calculations of those values.

2. Test Procedures for Water Closets and Urinals

The current test procedure for water closets and urinals is found in appendix T of 10 CFR part 430, subpart B, (Appendix T) and incorporates by reference ASME/ANSI Standard A112.19.6-1995. The test procedure in Appendix T is divided into two sections: "Test Apparatus and General Instructions," and "Test Measurement," both of which reference corresponding provisions in A112.19.6-1995. When ASME merged ASME/ANSI Standard A112.19.6-1995 with ASME/ANSI Standard A112.19.2-2003 "Vitreous China Plumbing Fixtures" to produce ASME/ANSI Standard A112.19.2-2008, several sections of the water consumption tests for water closets and urinals that DOE refers to in Appendix T were renumbered and no longer correspond to the same sections DOE references.

a. Test Procedure for Water Closets

DOE proposes to amend its regulations to correspond to the changes that ASME made in the 2008 version of its procedures for water closets. Specifically, the existing DOE test procedure in Appendix T requires that the test apparatus and instructions for testing water closets conform to the requirements specified in section 7.1.2, "Test Apparatus and General Instructions," subsections 7.1.2.1, 7.1.2.2, and 7.1.2.3, of ASME/ANSI Standard A112.19.6-1995, whereas DOE now proposes that its test procedure reference ASME/ANSI Standard

A112.19.2-2008, and in particular the sections that specify the requirements for test apparatus instructions and instructions for testing water closets in 7.1.1, 7.1.2, 7.1.3, and 7.1.4. These sections include minor changes to the test setup, which are described in the next paragraph.

The existing DOE test procedure requires that the measurement of the water flush volume of water closets be conducted in accordance with the test requirements specified in ASME/ANSI Standard A112.19.6-1995, section 7.1.6, "Water Consumption and Hydraulic Characteristics." In the updated ASME/ANSI A112.19.2-2008, the test procedure for measuring the water flush volume of water closets is found in section 7.4, "Water Consumption Test." Dual-flush water closets, which are not addressed in the 1995 ASME/ANSI procedure or in DOE's current test procedure, are required under ASME/ANSI A112.19.2-2008[3] to meet the flush volume requirement for low consumption water closets of 1.6 gallons per flush when the full flush volume is activated. Additional minor updates found in ASME/ANSI A112.19.2-2008 include (1) a required filter in the apparatus set-up (not previously required), (2) required receiving vessel calibration in increments of 0.25 liters (0.07 gallons) (decreased from 0.1 gallons), (3) required use of an electric timer with increments that are accurate within a tenth of a second to verify that the actuator is held for a maximum of 1 second (not previously specified), (4) revised static pressure requirements for flushometer valves with siphonic bowls to 80 psi for one round of tests and 35 psi for the second two rounds (previously one round of tests at each of three pressures: 80, 50, and 15 psi) and a similar provision for flushometer valves with blowout bowls, but at 80 and 45 psi (previously 80, 50, and 35 psi), and (5) required rounding of the total flush

[3] ASME/ANSI A112.19.14-2006, "Six-Liter Water Closets Equipped with a Dual Flushing Device," requires dual-flush water closets to meet the requirements of low consumption water closets when tested in full flush mode in accordance with ASME/ANSI A112.19.2.

volume down to the nearest 0.25 liters (0.07 gallons) (not previously specified). DOE sees no evidence that the changes identified in this paragraph will result in a change in the measured water use of water closets, would produce test results that less accurately measure the water use of water closets during a representative average use cycle, or would be more burdensome to conduct, and therefore proposes to incorporate by reference the applicable sections of ASME/ANSI Standard A112.19.2-2008 for testing water closets into Appendix T, except the rounding provisions, as discussed in section III.A.2.c.

b. Test Procedure for Urinals

The current DOE test procedure for urinals is also found in Appendix T and incorporates by reference ASME/ANSI Standard A112.19.6-1995. The existing DOE test procedure requires that the test apparatus and instructions for testing urinals conform to the requirements specified in ASME/ANSI Standard A112.19.6-1995, section 8.2, "Test Apparatus and General Instructions," subsections 8.2.1, 8.2.2, and 8.2.3. In updated ASME/ANSI Standard A112.19.2-2008, the section that specifies the requirements for test apparatus instructions and instructions for testing urinals is 8.2, "Test Apparatus and General Instructions," which includes subsections 8.2.1, 8.2.2, and 8.2.3. The existing DOE test procedure requires that the measurement of the water flush volume of urinals be conducted in accordance with the test requirements specified in ASME/ANSI A112.19.6-1995, section 8.5, "Water Consumption." In the 2008 version of A112.19.2, these requirements have been moved to section 8.6, "Water Consumption Test." Additionally, minor updates to the water consumption test found in ASME/ANSI A112.19.2-2008 include (1) a required filter in the apparatus set-up (not previously specified), (2) required

receiving vessel calibration of 0.25 liters (0.07 gallons) (decreased from 0.1 gallons), and (3) required rounding of the total flush volume down to the nearest 0.25 liters (0.07 gallons) (not previously specified). DOE sees no evidence that the changes identified in this paragraph will result in a change in the measured water use of urinals, produce test results that less accurately measure the water use of urinals during a representative average use cycle, or would be more burdensome to conduct, and therefore proposes to incorporate by reference the applicable sections from ASME/ANSI Standard A112.19.2-2008 for testing urinals into Appendix T, except for the rounding provision, as discussed in section III.A.2.c.

c. Rounding of test results for water closets and urinals

For both urinals and water closets, the existing DOE test procedure language in Appendix T requires that measurements be recorded at the resolution of the test instrumentation; that calculations be rounded off to the same number of significant digits as the previous step; and that the final water consumption value be rounded to one decimal place for water closets and for urinals. DOE added these provisions in its 1998 final rule (63 FR 13310-11) and has not received any information since that time indicating that these rounding provisions should be modified. However, in order to maintain consistency with the measurement and calculation methods in the ASME/ANSI A112.19.2-2008 procedure, DOE proposes to amend the rounding provisions in Appendix T to require that the final value of water consumption for each tested unit retain the number of significant digits present in the measured test value. Because EPCA uses gallons as the primary unit of measurement for assessing compliance with the standards for these products, the test values for each model would be converted to gallons after applying the applicable sample

statistics in 10 CFR 429.30 or 429.31, and the rated value of water consumption rounded to the nearest 0.01 gallon per flush (or nearest 0.01 liter per flush).

d. Dual-flush water closets

As previously discussed, DOE is proposing to require that dual-flush water closets be tested according to ANSI/ASME Standard A112.19.2-2008 to determine their maximum flush volume, as observed in full flush mode. However, DOE is aware that other testing and reporting metrics have been developed for these products in order to reflect the reduction in average water consumption that results from use of the reduced flow mode. In particular, the Environmental Protection Agency (EPA) WaterSense program's[4] specifications for water closets permit the overall water consumption of dual-flush water closets to be represented as a weighted average of the flush volumes, in which it is assumed that two thirds of all flushes will be the reduced flow (see EPA WaterSense Specification for Tank-Type Toilets version 1.1, section 3.2, available at http://www.epa.gov/WaterSense/docs/revised_het_specification_v1.1_050611_final508.pdf, or DOE Docket Number EERE-2011-BT-TP-0061, No. 1, p. 1).

DOE is proposing a test procedure to measure the water use of a dual-flush water closet over a representative average period of consumer use ("average representative water use"). DOE may, in a future rulemaking, consider amendments to the certification provisions for water

[4] WaterSense is a voluntary partnership program administered by the EPA which, among other activities, promotes water conservation by providing certification and labeling for water consuming products, including water closets, that meet certain water conservation standards. Further information is available at http://www.epa.gov/WaterSense/index.html.

closets that could account for the impact of the reduced flush on the water consumption of dual-flush water closets.

Under the proposed test procedure, the flush volume of the reduced flush would be measured using section 7.4 of ASME/ANSI Standard A112.19.2-2008 in the same manner as the full flush, and the average representative water use would be calculated using the composite average of two reduced flushes and one full flush.

In order to ensure that DOE has considered all relevant aspects of this approach, DOE requests comments on (1) its proposal to develop a test procedure to measure the average representative water use of dual-flush water closets in general, (2) whether the use of a composite average of the flush volumes of a dual-flush water closet is representative of the average water use of these products, and (3) whether the specific ratio of flush volumes proposed in this notice (i.e., two reduced flushes and one full flush) is an appropriate measure of the representative average water use of dual-flush water closets.

DOE requests comment on these proposed amendments to the existing test procedures for water closets and urinals, including provisions pertaining to representations of water consumption and calculations of those values, and the appropriate means of determining the representative average water use of dual-flush water closets.

3. Test Procedure for Commercial Prerinse Spray Valves

The current DOE test procedure for commercial prerinse spray valves is found in section 431.264 of 10 CFR part 431, subpart O, and requires that the test procedure to determine the water consumption flow rate of commercial prerinse spray valves be conducted in accordance with the test requirements specified in sections 4.1 and 4.2 (Summary of Test Method), 5.1 (Significance and Use), 6.1 through 6.9 (Apparatus) except 6.5, 9.1 through 9.5 (Preparation of Apparatus), 10.1 through 10.2.5 (Procedure), and calculations in accordance with sections 11.1 through 11.3.2 (Calculation and Report) of ASTM F2324-03, "Standard Test Method for Prerinse Spray Valves." ASTM has not updated the portions of this ASTM standard that are referenced in the DOE test procedure since DOE incorporated this standard by reference in the December 2008 final rule. 71 FR 71340. After considering that ASTM reapproved this standard in 2009 without making any substantive changes, DOE proposes in this NOPR to amend its current test procedure by incorporating by reference the most recent version of this standard as ASTM Standard F2324-03 (2009), "Standard Test Method for Prerinse Spray Valves."

The existing DOE test procedure for commercial prerinse spray valves found at 10 CFR 431.264 requires that measurements be recorded at the resolution of the test instrumentation; that calculations be rounded off to the same number of significant digits as in the previous step; and that the final water consumption value be rounded off to one decimal place as follows: (1) a fractional number at or above the midpoint between two consecutive decimal places shall be rounded up to the higher of the two decimal places, or (2) a fractional number below the

midpoint between two consecutive decimal places shall be rounded down to the lower of the two decimal places. DOE proposes to retain these provisions without change.

DOE invites comments on its proposal to retain the existing test procedure for commercial prerinse spray valves, with incorporation by reference of the most recent version of the ASTM standard, and is interested in any views on the suitability of this procedure for meeting the requirements of EPCA with respect to representativeness of measurements and test burden.

4. Design Requirements for Showerheads

In addition to the water consumption standards that were promulgated by EPCA for showerheads, the statute includes a provision that showerheads must also meet the requirements of section 7.4.3(a) of ASME/ANSI A112.18.1M-1989, which requires that if a flow control insert is used as a component of a showerhead, the showerhead must be manufactured such that a pushing or pulling force of 8 pounds (8 lbf.) or more is required to remove the insert. DOE subsequently adopted this provision in 10 CFR 430.32(p).

In the March 1998 final rule that adopted ASME/ANSI A112.18.1M-1996 as the test procedure for showerheads and faucets, DOE amended the text in section 430.32(p) to reflect that the aforementioned provision of the ASME/ANSI standard had been moved to section 7.4.4(a). 63 FR 13309-10. This provision was retained in the updated A112.18.1-2011, but has been moved to section 4.11.1 of that standard. Additionally, the language for this provision in the

2011 version of the ASME standard has changed slightly from the 1996 version in that the force required to remove the flow-restricting insert is no longer referred to specifically as a "pushing or pulling" force, but rather, is described only as a force of 36 Newtons (N) (8.0 lbf) or more, where the Newton measurement represents a conversion of the original lbf measurement to the International System of Units (SI, or metric units) after rounding to a whole number. Since the amount of force expressed in inch/pound units has not changed, DOE does not view this as a substantive change in the industry requirement and proposes to incorporate the text of this provision from ASME/ANSI Standard A112.18.2-2011 at section 430.32(p) of 10 CFR part 430 as a direct replacement of the existing provision. However, for the purposes of compliance with Federal standards, DOE proposes to retain the 8 lbf metric as the applicable standard in order to maintain consistency with the original statutory provision in 42 U.S.C. 6295(j), which references the 8 lbf requirement as described in the first paragraph of this section. Thus, the proposed text lists 8 lbf as the primary measure, with the equivalent 36 N included as a secondary metric for reference purposes.

While DOE is not proposing any change to this design requirement, DOE notes that no specific test procedure exists in ASME Standard A112.18.1-2011, or in any previous version of that standard, for verifying that a flow-restricting insert remains mechanically retained when subjected to a force of 8 lbs. DOE searched for a more general test method for assessing a pulling or pushing force of this type and was unable to identify any standardized method for this purpose. One of the testing organizations DOE contacted did provide information about the types of test configurations and equipment it typically uses for assessing compliance with this

requirement during the compliance tests for showerheads, which generally apply either a pushing or pulling force that is measured using a calibrated force meter. However, since the design configuration of flow-restricting inserts varies among models, a standardized method based upon the setups currently used by test laboratories may not be useful in all cases, particularly if a flow-restricting insert is a threaded screw-in type, wherein a torque would be required to remove it as opposed to a pulling or pushing force. Other flow-restricting inserts are secured to the inlet of the showerhead with a retainer or plastic plate that requires the testing laboratory to adapt its test depending on the specific location of the flow-restricting insert and retainer.

In the absence of any publicly available standard test method, and with limited information about how variation in the designs of flow-restricting inserts may complicate the development of a standardized method, DOE is unable at this time to propose, for inclusion in the test procedure for showerheads, a specific method of verifying the force required to remove a flow-restricting insert. However, since the adoption of a standardized approach would enable manufacturers to more effectively demonstrate compliance with this provision in the case of a challenge and would enable DOE or others to independently verify compliance in a standardized manner, DOE is interested in receiving comments and information on prospective methods for verifying that the 8 lbf requirement in section 4.11.1 of ASME/ANSI Standard A112.18.1-2011 has been met. DOE is also interested in comments and information on showerhead designs that may complicate verification of this provision or make it unnecessary. Based upon information received, DOE may consider proposing a test method as part of a supplemental notice of proposed rulemaking.

5. Definitions

To address certain provisions of the revised ASME/ANSI procedures that were not contemplated in the versions referenced by the existing DOE test procedure, and to establish greater clarity with respect to product coverage, DOE proposes to adopt new definitions for the terms "accessory," "body spray," and "fitting," based on the definitions for these components in ASME/ANSI Standard A112.18.1-2011, and a definition for "dual-flush water closet" from ASME/ANSI Standard A112.19.2-2008, all of which would be incorporated into 10 CFR part 430, section 430.2. DOE also proposes a definition for "hand-held showerhead," which is not found in ASME/ANSI A112.18.1-2011, but was derived from the description of these products found in the WaterSense Specification for Showerheads, Version 1.0, developed by the EPA (See http://www.epa.gov/WaterSense/docs/showerheads_finalspec508.pdf, or DOE Docket Number EERE-2011-BT-TP-0061, No. 2, p. 1). Finally, DOE proposes an amendment to the existing definition of "showerhead" currently found in 10 CFR 430.2. The proposed definition is based upon the definition for showerhead included in ASME/ANSI A112.18.1-2011, but has been modified to more clearly define the extent of DOE's coverage of these products, and to specifically state that safety shower showerheads are not covered products, that hand-held showerheads are covered, and that DOE considers a body spray to be a showerhead for the purposes of regulatory coverage.

DOE also notes that the proposed application of the terms "fitting" and "accessory" to showerheads, specifically within the context of their coverage under DOE standards, may

diverge slightly from previous use of these terms in other DOE documents addressing these products. DOE is proposing to adopt definitions for fitting and accessory, and a definition of showerhead that uses these terms, in order to more closely align the regulatory terminology with that of the industry standards upon which the DOE test procedure and water conservation standards are based, and to ensure that the meanings of these terms are consistent as applied to the products covered by DOE standards.

All components that are defined as an "accessory" (or a combined set of accessories) to a supply fitting represent a single covered product that must meet the DOE standard. Any components that are part of the "fitting" that is supplying water to an accessory, such as a valve (or valves) and connected piping, are not part of the covered product. Because the applicable water conservation standard applies to a basic model of a covered product as distributed in commerce, individual basic models that are packaged and sold, or otherwise distributed in commerce, separately and installed into a system by the purchaser would be subject to the standard individually, not as an installed system. In contrast, a system of spraying components that is packaged and/or distributed in commerce as a single "accessory" or a single set of "accessories," designed to be attached to a single fitting, would be defined as a single showerhead and would be subject to the 2.5 gallon per minute (gpm) standard assigned to these products under 42 U.S.C. 6295(j).

DOE invites comments on its proposal to adopt definitions for "accessory," "body spray," "hand-held showerhead," "fitting," and "dual-flush water closet," and to amend the definition of "showerhead" as shown in the proposed regulatory text at the end of this notice.

B. Supplementary Plumbing Requirements

1. Definition of a Basic Model

DOE defines a "basic model" as it applies to showerheads, faucets, water closets, and urinals in 10 CFR 430.2, and it defines "basic model" as it applies to commercial prerinse spray valves in section 431.262. With respect to the definitions of "basic model" as they apply to showerheads, faucets, and commercial prerinse spray valves, DOE has received no information since the adoption of these definitions indicating that a revision is necessary, and does not propose any revisions to these definitions in this proposed rule.

With respect to water closets and urinals, DOE has received information indicating that confusion may exist among manufacturers regarding how to properly apply the concept of a basic model to certain types of water closets and urinals. More specifically, in the case of flushometer valve water closets and urinals,[5] and certain gravity tank water closets in which the tank and flushing device are concealed within the wall rather than attached directly to the bowl, DOE has been made aware that the water consumption of a given model of bowl for a water closet or urinal can be directly affected by the specific flushometer valve or tank-type flushing device that is paired with that bowl. This has complicated the process of testing, reporting, and

[5] The term "flushometer" refers generally to a type of valve that operates water closets and urinals without the use of a tank by relying principally on pressurized water to provide the flushing action. Flushometers are most commonly used in public restroom facilities.

labeling water closets and urinals under the existing DOE compliance, certification, and enforcement provisions due to the various combinations of valves and/or tanks from different manufacturers that could be paired with a given bowl.

DOE proposes to retain the existing definitions of a basic model of water closet and basic model of urinal, but emphasizes that the manner in which individual models may be grouped together as basic models for the purposes of reporting water consumption in accordance with 10 CFR 429.12 should be based upon the maximum flow for a given bowl (or urinal body) and the valve or tank with which it is designed to operate. In other words, by certifying a given pairing of water closet bowl and valve (or tank) or urinal body and valve as a basic model under the existing certification and compliance framework, the manufacturer would be certifying that the pairing on which that basic model's rating is based is the maximum flush volume that model of water closet bowl or urinal body is designed to provide, and that it could not be paired with a flushing device or tank that would provide a higher flush volume and still function properly.

Under the compliance certification framework described in the previous paragraph, a manufacturer would be permitted to represent the rated flush volume of a particular model of water closet bowl or urinal body using a representative model of flushometer valve or gravity tank that provides a flush volume at this maximum level, regardless of any other such pairings that may be possible using valves or tanks from other manufacturers. Since, by design, none of the individual models of that basic model of water closet or urinal could operate using a flushing device providing a higher volume, the pairing upon which the certification is based, as well as all

other pairings, would be compliant with the applicable water consumption standard. In addition, manufacturers are permitted under the certification provisions of 10 CFR part 429 to rate products conservatively at the maximum flush volume, even if certain combinations of bowls and flushing devices consume less water per flush than the maximum volume permitted by the relevant water consumption standard. Note, however, that if a manufacturer wishes to make representations of the water consumption of a given pairing that provides a lower volume flush than the maximum design volume, such as on product labels or in advertising or marketing materials, that particular pairing must be certified as a separate basic model and rated at the specific flush volume that the manufacturer intends to use in representations.

As a theoretical example of this method, a manufacturer wishes to certify a particular model of flushometer water closet, referred to here as "model A." This model is designed to operate using flushometer valves that provide a volume as high as 1.6 gallons per flush (the Federal standard), and as low as 1.28 gallons per flush (the EPA WaterSense standard). There are many available flushometer valves that meet these requirements, but the manufacturer has tested model A with two flushometer valves: model 1, which operates at 1.6 gallons per flush, and model 2, which operates at 1.28 gallons per flush. The individual model pairings are identified as models A1 and A2, respectively. If the manufacturer is not concerned about labeling this model at any rating less than the Federal standard, then it is permissible to rate the model using valve model 1, and certify model A at 1.6 gallons per flush. To indicate that the basic model can use multiple flush valves, under this model numbering convention it could be certified as basic model A*, with the asterisk as a placeholder value to allow for other valve models. However, if

the manufacturer wishes to label a version of model A as meeting the 1.28 gallon per flush standard, the combination that provides that rating must be certified separately as basic model A2.

DOE invites comments on this interpretation of the current definition of a basic model of water closet and urinal, and any other factors that DOE should consider in clarifying the definition of basic model and how manufacturers may group models and rate their water consumption.

2. Statistical Sampling Plans for Certification

The statistical sampling plans required for determining the rated values of water consumption for faucets, showerheads, water closets, urinals, and commercial prerinse spray valves are specified in sections 429.28, 429.29, 429.30, 429.31, and 429.51, respectively, of 10 CFR part 429. While DOE is not proposing to change these provisions in today's NOPR, DOE is interested in receiving comments on all elements of these provisions, including the confidence limits and potential revisions to the respective sampling plans that might better reflect the level of repeatability and reproducibility that is achievable for each test, and the variability in measured water consumption that is inherent for each product.

3. Information To Be Provided in Certification Reports

10 CFR part 429 describes the information that manufacturers are required to supply to DOE to certify that covered products comply with energy and water conservation standards.

Section 429.12 lists the information that manufacturers are required to report for all products, and specific requirements for plumbing products are identified in section 429.28 (for faucets), section 429.29 (for showerheads), section 429.30 (for water closets), section 429.31 (for urinals), and section 429.51 (for commercial prerinse spray valves). DOE proposes to retain the existing reporting requirements for all five product types. DOE proposes to move the rounding provision for the rated value of water consumption for all five product types from the applicable test procedures to part 429 to clarify that rounding of the final rated value of water consumption for a basic model should occur after application of the sampling statistics.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute "significant regulatory actions" under section 3(f) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993). Accordingly, this proposed action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires preparation of an initial regulatory flexibility analysis (IRFA) for any proposed rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of

small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, so that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990 (February 12, 2003). DOE has made its procedures and policies available on the Office of the General Counsel's website at http://www.gc.doe.gov/gc/office-general-counsel.

DOE reviewed the proposed rule to amend the test procedures for plumbing equipment including showerheads, faucets, water closets, urinals and commercial prerinse spray valves under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the proposed rule, if adopted, would not result in significant economic impacts on small entities. The factual basis for this certification is set forth in the following paragraphs.

For the plumbing equipment manufacturing industry, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as "small businesses" for the purpose of the statute. DOE used the SBA's size standards to determine whether any small entities would be required to comply with the rule. The size standards are codified at 13 CFR part 121. The standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf. Plumbing equipment manufacturers are classified under NAICS 332913, "Plumbing Fixture Fitting and

Trim Manufacturing," and NAICS 327111, "Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing." The SBA sets a threshold of 500 employees or less for NAICS 332913, and 750 employees or less for NAICS 327111, for an entity to be considered a small business within these categories.

DOE conducted a focused inquiry into small business manufacturers of products covered by this rulemaking. During its market survey, DOE used all available public information to identify potential small manufacturers. DOE's research involved the review of industry trade association membership directories (including the American Society of Plumbing Engineers), product databases (e.g., Federal Trade Commission (FTC), the Thomas Register, California Energy Commission (CEC), and ENERGY STAR databases), individual company websites, and marketing research tools (e.g., Dun and Bradstreet reports, Manta) to create a list of companies that manufacture or sell plumbing products covered by this rulemaking. Using these sources, DOE identified 83 manufacturers of showerheads, faucets, water closets, urinals and commercial prerinse spray valves.

DOE then reviewed this data to determine whether the entities met the SBA's definition of a small business manufacturer of covered plumbing products and screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a "small business," or are foreign owned and operated. Based on this review, DOE has identified 48 manufacturers that would be considered small businesses. Through this analysis, DOE determined the expected impacts of the rule on affected small businesses and whether an IRFA

was needed (i.e., whether DOE could certify that this rulemaking would not have a significant economic impact on a substantial number of small entities).

Table 1 stratifies the small businesses according to their number of employees. The smallest company has 4 employees and the largest company 375 employees. The majority of the small businesses affected by this rulemaking (88 percent) have fewer than 100 employees. Annual revenues associated with these small manufacturers were estimated at $492.5 million ($10.3 million average annual sales per small manufacturer). According to DOE's analysis, small entities comprise 58 percent of the entire plumbing equipment manufacturing industry covered by the proposed rule.

Small Business Size by Number of Employees

Number of Employees	Number of Small Businesses	Percentage of Small Businesses	Cumulative Percentage
1-10	8	16.7%	16.7%
11-20	10	20.8%	37.5%
21-30	3	6.3%	43.8%
31-40	11	22.9%	66.7%
41-50	3	6.3%	72.9%
51-60	1	2.1%	75.0%
61-70	0	0.0%	75.0%
71-80	5	10.4%	85.4%
81-90	0	0.0%	85.4%
91-100	1	2.1%	87.5%
101-110	0	0.0%	87.5%
111-120	0	0.0%	87.5%
121-130	0	0.0%	87.5%
131-140	0	0.0%	87.5%
141-150	0	0.0%	87.5%
151-200	2	4.2%	91.7%
201-300	2	4.2%	95.8%

301-400	2	4.2%	100.0%
401-500	0	0.0%	100.0%
Total	48		

As noted in the Summary and Background sections of this NOPR, EPCA requires that DOE review its test procedures for covered products at least once every seven years and to amend them if the Secretary determines that to do so would provide test procedures that would more accurately or completely measure water use and that are not unduly burdensome to conduct. (See 42 U.S.C. 6293(b)(1)) To comply with EPCA, this rule proposes to incorporate amendments to ASME/ANSI test procedures, which have been updated for faucets, showerheads, water closets and urinals. Additionally, EPCA prescribes use of the ASTM Standard F2324 for commercial prerinse spray valves, which is a product that is also covered in this rulemaking.

Showerheads and Faucets

DOE is proposing to update its testing procedures for showerheads and faucets by incorporating by reference AMSE/ANSI Standard A112.18.1-2011. These proposed changes involve minor adjustments in test methodology, such as changes in temperatures and inclusion of instrument tolerances that were not previously specified, none of which would require any additional equipment and are not expected to lengthen the time required to complete the test. Because there are no major changes in testing procedures, calculation methodology or certification requirements associated with this proposal, DOE has tentatively determined there would be no incremental cost burden to small entities associated with this change.

Water Closets and Urinals

DOE is proposing to update its water closet and urinal test procedures from those set forth in ASME/ANSI A112.19.6-1995 to comply with ASME/ANSI A112.19.6-2008. The proposed changes involve minor adjustments in test setup, the specification of certain instrumentation tolerances, and minor adjustment to test pressures, none of which would require additional equipment or lengthen the time required to complete the test. Because there are no major changes in testing procedures or requirements for these products, DOE proposes to incorporate this change by reference. The changes proposed in this rule would not alter current testing procedures, calculation methodologies or enforcement. Therefore, DOE has tentatively concluded there would be no incremental cost burden to small manufacturers associated with the non-substantive changes in this proposed rule.

Commercial Prerinse Spray Valves

DOE currently requires that commercial prerinse spray valves be tested according to the ASTM Standard Test Method for Prerinse Spray Valves (ASTM F2324-03). This proposed rule would not make any alterations to this test, as it has not been updated since the 2003 version that DOE incorporated in the Code of Federal Regulations. 70 FR 60407 (October 18, 2005). Thus, DOE determines there would be no incremental cost burden to manufacturers of commercial prerinse spray valves associated with this proposed rule.

As indicated previously, DOE has analyzed the manufacturing industry for showerheads, faucets, water closets, urinals and commercial prerinse spray valves and has determined that 58

percent of all plumbing equipment manufacturers could be classified as small entities according to the SBA classification. Although 58 percent of the market is a significant portion of the overall industry, these manufacturers would not be significantly affected by this rule because there would be no incremental costs to any entity due to its implementation. In the absence of potential cost impacts, the proposed rule by definition would not have disproportionate effects on small businesses.

Based on the criteria outlined in the preceding paragraph, DOE has tentatively concluded that the proposed testing procedure amendments would not have a "significant economic impact on a substantial number of small entities," and the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

DOE seeks comment on its tentative conclusion that the proposed test procedure changes will not have a significant impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of showerheads, faucets, water closets, urinals, and commercial prerinse spray valves must certify to DOE that their products comply with any applicable water conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for showerheads, faucets, water closets, urinals, and

commercial prerinse spray valves, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including showerheads, faucets, water closets, urinals, and commercial prerinse spray valves. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910-1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this notice, DOE proposes to amend its test procedure for showerheads, faucets, water closets, and urinals to improve the ability of DOE's procedures to more accurately account for the water consumption of these products. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and DOE's implementing regulations at 10 CFR part 1021.

Specifically, this rule amends an existing rule without changing its environmental effect, and, therefore, is covered by the Categorical Exclusion in 10 CFR part 1021, subpart D, paragraph A5. The exclusion applies because this rule would establish revisions to existing test procedures that would not affect the amount, quality, or distribution of energy usage, and, therefore, would not result in any environmental impacts. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. 64 FR 43255 (August 10, 1999). The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process that it will follow in developing such regulations. 65 FR 13735. DOE examined this proposed rule and determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from

such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation specifies the following: (1) the preemptive effect, if any; (2) any effect on existing Federal law or regulation; (3) a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) the retroactive effect, if any; (5) definitions of key terms; and (6) other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or whether it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4; 2 U.S.C. 1501 et seq.) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish estimates of the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a)-(b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect such governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. (The policy is also available at http://www.gc.doe.gov/gc/office-general-counsel.) This proposed rule contains neither an intergovernmental mandate nor a mandate that may result in an expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that

may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to

prepare and submit to the Office of Information and Regulatory Affairs (OIRA) a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the proposal is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed regulatory action to amend the test procedures for measuring the water consumption of showerheads, faucets, water closets, and urinals is not a significant regulatory action under Executive Order 12866. It has likewise not been designated as a significant energy action by the Administrator of OIRA. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the DOE Organization Act (Pub. L. 95-91; 42 U.S.C. 7101 et seq.), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977 (FEAA). (15 U.S.C.

788) Section 32 essentially provides in part that, where a proposed rule authorizes or requires use of commercial standards, the rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the U.S. Attorney General (Attorney General) and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The proposed modifications to the test procedures addressed by this proposed action incorporate testing methods contained in section 5.4 of commercial standard ASME/ANSI Standard A112.18.1-2011 and sections 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.4, 8.2.1, 8.2.2, 8.2.3, and 8.6 of commercial standard ASME/ANSI Standard A112.19.2-2008. DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (i.e., whether they were developed in a manner that fully provides for public participation, comment, and review.) DOE will consult with the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards, before prescribing a final rule.

V. Public Participation

A. Attendance at the Public Meeting

The time, date and location of the public meeting are listed in the DATES and ADDRESSES sections of this document. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945 or Brenda.Edwards@ee.doe.gov. As explained in the

ADDRESSES section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

In addition, you can attend the public meeting via webinar. To participate via webinar, participants must notify DOE no later than Tuesday, July 17, 2012. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on the following website: https://www1.gotomeeting.com/register/878216768. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Requests to Speak

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the ADDRESSES section of this proposed rule. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE) before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or

questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the procedures discussed in this section that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the DATES section of this proposed rule. Interested parties may submit comments using any of the methods described in the ADDRESSES section of this proposed rule.

Submitting comments via regulations.gov. The regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment or in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the "Confidential Business Information" section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not

want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. 10 CFR 1004.11(e)

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comment on its proposal to incorporate by reference ASME/ANSI Standard A112.18.1-2011, "Plumbing Supply Fittings," specifically regarding the following substantive changes to the current DOE test procedures for showerheads and faucets: (1) a requirement that the pressure differential measurement be within +/- 1 pound per square inch (psi) for faucets and +/- 2 psi for showerheads (not previously specified for either product), (2) a change in the test procedure temperature range to 5 to 71 °C for faucets (previously 4 to 66 °C) and to 32 to 44 °C for showerheads (previously 4 to 66 °C), (3) required use of a container large enough to hold water collected over a minimum of 1 minute when using the time/volume test procedure method (not previously specified), and (4) a requirement that flow be maintained for at least 1 minute for showerheads (not previously specified).
2. DOE requests comment on the proposed incorporation by reference of the ASME/ANSI Standard A112.19.2-2008, "Ceramic Plumbing Fixtures," specifically regarding the following substantive changes to the current test procedures for water closets and urinals: (1) a required filter in the apparatus set-up (not previously required), (2) receiving vessel calibration of 0.25 liters (0.07 gallons) (decreased from 0.1 gallons), (3) required use of an electric timer with increments that are accurate to within a tenth of a second to verify the actuator is held for a maximum of 1 second (not previously specified), (4) change in the static pressure requirements for a flushometer valve with a siphonic bowl to 80 and

35 psi (previously 80, 50, and 15 psi) and with blowout bowl to 80 and 45 psi (previously 80, 50, and 35 psi), and (5) requiring rounding of the calculated value for each tested unit to the number of significant digits resulting from the test in place of the 0.25 liter increment in the revised ANSI/ASME standard.

3. DOE requests comments on (1) its proposal to develop a test procedure to measure the average representative water use of dual-flush water closets in general, (2) whether the use of a composite average of the flush volumes of a dual-flush water closet is representative of the average water use of these products, and (3) whether the specific ratio of flush volumes proposed in this notice (i.e., two reduced flushes and one full flush) is an appropriate measure of the representative average water use of dual-flush water closets.
4. DOE requests comment on its proposal to retain the existing test procedure for commercial prerinse spray valves and incorporate by reference the most recent version of ASTM F2324-03. DOE is also interested in any views on the suitability of this procedure for meeting the requirements of EPCA with respect to representativeness of measurements and test burden.
5. DOE requests comments and information on prospective methods for verifying that the 8 lb. force requirement in section 4.11.1 of ASME/ANSI Standard A112.18.1-2011 has been met, and any showerhead designs that may complicate verification of the 8 lb. force provision or make it unnecessary.

6. DOE requests comment on its proposed definitions of the terms "accessory," "body spray," "fitting," "hand-held showerhead," and "dual-flush water closet," and its proposed amendment to the existing definition of "showerhead."
7. DOE requests comment on the current definition of a basic model of water closet and urinal and any other factors that DOE should consider in determining the appropriate means by which to group various combinations of water closet or urinal bowls with flushing devices as basic models and rate their water consumption.
8. DOE requests comment on all elements of the provisions for the calculation of test results, including the confidence limits; revisions to the sampling plans that might better reflect the level of precision that is achievable for each respective test; and variability in measured water consumption that is expected for each respective product.
9. DOE seeks comment on its tentative conclusion that the proposed test procedure changes will not have a significant impact on a substantial number of small entities.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Intergovernmental relations, Small businesses.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on May 17, 2012

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Kathleen B. Hogan
Deputy Assistant Secretary of Energy
Efficiency and Renewable Energy

For the reasons stated in the preamble, DOE proposes to amend parts 429, 430 and 431 of chapter II of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 429 – CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291 – 6317.

2. Section 429.28 is amended by revising paragraph (b)(2) to read as follows:

§ 429.28 Faucets.

* * * * *

(b) * * *

(2) Pursuant to §429.12(b)(13), a certification report shall include the following public product-specific information: For non-metering faucets, the maximum water use in gallons per minute (gpm) rounded to the nearest 0.1 gpm; for metering faucets, the maximum water use in gallons per cycle (gal/cycle) rounded to the nearest 0.01 gal/cycle; and for all faucet types, the flow water pressure in pounds per square inch (psi).

3. Section 429.29 is amended by revising paragraph (b)(2) to read as follows:

§ 429.29 Showerheads.

* * * * *

(b) * * *

(2) Pursuant to §429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per minute (gpm) rounded to the nearest 0.1 gpm and the maximum flow water pressure in pounds per square inch (psi).

* * * * *

4. Section 429.30 is amended by revising paragraph (b)(2) to read as follows:

§ 429.30 Water closets.

* * * * *

(b) * * *

(2) Pursuant to §429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per flush (gpf), rounded to the nearest 0.01 gpf.

5. Section 429.31 is amended by revising paragraph (b)(2) to read as follows:

§ 429.31 Urinals.

* * * * *

(b) * * *

(2) Pursuant to §429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per flush (gpf), rounded to the nearest

0.01 gpf; and for trough-type urinals, the maximum flow rate in gallons per minute (gpm), rounded to the nearest 0.01 gpm, and the length of the trough in inches (in).

6. Section 429.51 is amended by revising paragraph (b)(2) to read as follows:

§ 429.51 Commercial pre-rinse spray valves.

* * * * *

(b) * * *

(2) Pursuant to §429.12(b)(13), a certification report shall include the following public product-specific information: The maximum flow rate in gallons per minute (gpm), rounded to the nearest 0.1 gpm.

PART 430 – ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

7. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291 – 6309; 28 U.S.C. 2461 note.

8. Section 430.2 is amended by adding, in alphabetical order, definitions for "Accessory," "Body spray," "Fitting," "Dual-flush water closet," and "Hand-held showerhead," and by revising the definition of "Showerhead" to read as follows:

§ 430.2 Definitions.

* * * * *

Accessory means, with respect to plumbing fittings, a component that can, at the discretion of the user, be readily added, removed, or replaced and that, when removed, will not prevent the fitting from fulfilling its primary function.

* * * * *

Body spray means a shower device for spraying water onto a bather from other than the overhead position.

* * * * *

Dual-flush water closet means a water closet incorporating a feature that allows the user to flush the water closet with either a reduced or a full volume of water.

* * * * *

Fitting means a device that controls and guides the flow of water.

* * * * *

Hand-held showerhead means a showerhead that can be fixed in place or used as a movable accessory for directing water onto a bather.

* * * * *

Showerhead means an accessory, or set of accessories, to a supply fitting distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, including body sprays and hand-held showerheads, but excluding safety shower showerheads.

* * * * *

9. Section 430.3 is amended by revising paragraphs (g)(1) and (g)(2) to read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(g) * * *

(1) ASME/ANSI A112.18.1-2011, "Plumbing Fixture Fittings," approved May 31, 2011, IBR approved for appendix S to subpart B.

(2) ASME/ANSI A112.19.2-2008, "Plumbing Fixture Fittings," approved August 1, 2008, IBR approved for appendix T to subpart B.

* * * * *

10. Section 430.23 is amended by revising paragraph (u) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(u) Water closets. The maximum water use for water closets, expressed in gallons and liters per flush (gpf and Lpf), shall be measured in accordance with section 3(a) of appendix T of this subpart. The maximum water use for dual-flush water closets, also expressed in gpf and Lpf, shall be the full flush volume, as measured in accordance with section 3(a) of appendix T of this subpart. Representative average water use of dual-flush water closets shall be calculated using a composite average of two reduced flush volumes and one full flush volume, as measured in accordance with section 3(a) of appendix T of this subpart.

* * * * *

11. Appendix S to subpart B of part 430 is amended by revising section 2, "Flow Capacity Requirements," to read as follows:

APPENDIX S TO SUBPART B OF PART 430--UNIFORM TEST METHOD FOR MEASURING THE WATER CONSUMPTION OF FAUCETS AND SHOWERHEADS

* * * * *

2. Flow Capacity Requirements

a. Faucets – The test procedures to measure the water flow rate for faucets, expressed in gallons per minute (gpm) and liters per minute (L/min), or gallons per cycle (gal/cycle) and liters per cycle (L/cycle), shall be conducted in accordance with the test requirements specified in section 5.4, Flow Rate, of ASME/ANSI A112.18.1-2011 (incorporated by reference, see §430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations shall be rounded off to the same number of significant digits as the previous step. The final water consumption value of each tested unit shall be rounded to one decimal place for non-metered faucets, or two decimal places for metered faucets.

b. Showerheads – The test procedures to measure the water flow rate for showerheads, expressed in gallons per minute (gpm) and liters per minute (L/min), shall be conducted in accordance with the test requirements specified in section 5.4, Flow Rate, of the ASME/ANSI A112.18.1-2011 (incorporated by reference, see §430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations shall be rounded off to the same number of significant digits as the previous step. The final water consumption value of each tested unit shall

be rounded to one decimal place.

12. Appendix T to subpart B of part 430 is amended by revising section 2, "Test Apparatus and General Instructions," and section 3, "Test Measurement," to read as follows:

APPENDIX T TO SUBPART B OF PART 430--UNIFORM TEST METHOD FOR MEASURING THE WATER CONSUMPTION OF WATER CLOSETS AND URINALS

* * * * *

2. Test Apparatus and General Instructions

a. The test apparatus and instructions for testing water closets shall conform to the requirements specified in section 7.1, General, subsections 7.1.1, 7.1.2, 7.1.3, and 7.1.4 of ASME/ANSI A112.19.2-2008 (incorporated by reference, see §430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations of water consumption for each tested unit shall be rounded off to the same number of significant digits as the previous step.

b. The test apparatus and instructions for testing urinals shall conform to the requirements specified in section 8.2, Test Apparatus and General Instructions, subsections 8.2.1, 8.2.2, and 8.2.3 of ASME/ANSI A112.19.2-2008 (incorporated by reference, see §430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations of water consumption for each tested unit shall be rounded off to the same number of significant digits as the previous step.

3. Test Measurement

a. Water closets – The measurement of the water flush volume for water closets, expressed in gallons per flush (gpf) and liters per flush (Lpf), shall be conducted in accordance with the test requirements specified in section 7.4, Water Consumption Test, of ASME/ANSI A112.19.2-2008 (incorporated by reference, see §430.3). For dual-flush water closets, measurement of the water flush volume for the full flush and reduced flush modes shall be conducted in accordance with all test requirements for water closets specified in this appendix.

b. Urinals – The measurement of water flush volume for urinals, expressed in gallons per flush (gpf) and liters per flush (Lpf), shall be conducted in accordance with the test requirements specified in section 8.6, Water Consumption Test, of ASME/ANSI A112.19.2-2008 (incorporated by reference, see §430.3).

13. Section 430.32 is amended by revising paragraph (p) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(p) Showerheads. The maximum water use allowed for a showerhead shall be 2.5 gallons per minute (9.5 liters per minute) when measured at a flowing pressure of 80 pounds per square inch gage (552 kilopascals). When used as a component of any such showerhead, the flow-restricting insert shall be mechanically retained at the point of manufacture such that a force of 8.0 lbf (36 N) or more is required to remove the flow-restricting insert. This requirement shall not apply to

showerheads that would cause water to leak significantly from areas other than the spray face if the flow-restricting insert were removed.

* * * * *

PART 431 -- ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

14. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291-6317.

15. Section 431.263 is revised to read as follows:

§ 431.263 Materials incorporated by reference.

(a) DOE incorporates by reference the following standard into part 431. The material listed has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to a standard by the standard-setting organization will not affect the DOE regulations unless and until amended by DOE. Material is incorporated as it exists on the date of the approval and a notice of any change in the material will be published in the Federal Register. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Also, this material is available for inspection at U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, or go to: http://www1.eere.energy.gov/buildings/appliance_standards/. This standard can be obtained from the source below.

(b) ASTM. American Society for Testing and Materials International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohoken, PA 19428-2959, (610) 832-9585, or got to http://www.astm.org.

(1) ASME Standard F2324-03 (2009), Standard Test Method for Prerinse Spray Valves, approved May 1, 2009; IBR approved for §431.264.

(2) Reserved.

16. Section 431.264 paragraph (b) is revised to read as follows:

§ 431.264 Uniform test method for the measurement of flow rate for commercial prerinse spray valves.

* * * * *

(b) Testing and Calculations. The test procedure to determine the water consumption flow rate for prerinse spray valves, expressed in gallons per minute (gpm) or liters per minute (L/min), shall be conducted in accordance with the test requirements specified in sections 4.1 and 4.2 (Summary of Test Method), 5.1 (Significance and Use), 6.1 through 6.9 (Apparatus) except 6.5, 9.1 through 9.5 (Preparation of Apparatus), and 10.1 through 10.2.5. (Procedure), and

calculations in accordance with sections 11.1 through 11.3.2 (Calculation and Report) of ASTM F2324–03 (2009), "Standard Test Method for Prerinse Spray Valves." (incorporated by reference, see §431.263) Perform only the procedures pertinent to the measurement of flow rate. Record measurements at the resolution of the test instrumentation. Round off calculations to the same number of significant digits as the previous step. Round the final water consumption value to one decimal place as follows:

(1) A fractional number at or above the midpoint between two consecutive decimal places shall be rounded up to the higher of the two decimal places; or

(2) A fractional number below the midpoint between two consecutive decimal places shall be rounded down to the lower of the two decimal places.

[FR Doc. 2012-12919 Filed 05/29/2012 at 8:45 am; Publication Date: 05/30/2012]